

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

DOCKET NOS. 1999-364-C and 1999-416-C - ORDER NO. 2000-0080

JANUARY 19, 2000

IN RE:	Application of Avana Communications Corporation For A Certificate of Public Convenience and Necessity To Provide Resold Local Exchange Services in South Carolina	)	ORDER
		)	GRANTING
		)	CERTIFICATE
		)	
	AND	)	
	Application of Avana Communications Corporation d/b/a AvanaCom For A Certificate of Public Convenience and Necessity To Provide Resold Interexchange Telecommunications Services and To Provide Intrastate Interexchange Alternate Operator Services (AOS) Throughout the State of South Carolina	)	
		)	

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Applications of Avana Communications Corporation ("Avana Communications Corporation" or the "Company"). On August 26, 1999, Avana Communications Corporation, d/b/a AvanaCom filed an application with the Commission for a Certificate of Public Convenience and Necessity to provide resold interexchange telecommunications services and to provide intrastate interexchange alternate operator services throughout the State of South Carolina. On September 22, 1999, Avana Communications Corporation filed an application with the Commission for a Certificate of Public Convenience and Necessity to provide resold local exchange services in South

Carolina. The Company's Applications were filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1998) and the Regulations of the Public Service Commission of South Carolina. On December 6, 1999, Avana Communications Corporation, by letter, requested that the scheduled hearings on its two applications pending before the Commission be consolidated and heard during one hearing on January 6, 2000. In Order No. 1999-908, this Commission consolidated Avana Communications Corporation's applications in Docket Numbers 1999-364-C and 1999-416-C and scheduled one hearing on January 6, 2000, at 12:30 p.m.

By letter, the Commission's Executive Director instructed Avana Communications Corporation to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The proposed Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. Avana Communications Corporation complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC"). Counsel for SCTC filed with the Commission a Stipulation in which Avana Communications Corporation stipulated that it would only seek authority in non-rural local exchange ("LEC") service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until Avana Communications Corporation provided written notice of its intent prior to the date of the intended service. Avana Communications Corporation also stipulated that it was

not asking the Commission to make a finding at this time regarding State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to Avana Communications Corporation provided the conditions contained in the Stipulation are met. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on January 6, 2000, at 12:30 p.m., in the Commission's Hearing Room. The Honorable Philip T. Bradley, presided. Avana Communications Corporation was not represented by counsel. Jocelyn D. Green, Staff Counsel, represented the Commission Staff.

Scott Barber, Chief Technology Officer of Avana Communications Corporation, appeared and offered testimony in support of the Company's application. Mr. Barber testified that the Company is seeking certification from the Commission to offer local services to non-rural customers, resold interexchange services and alternate operator services to business and residential customers. The Company is not planning to offer prepaid calling cards in South Carolina.

Regarding the Company's managerial ability to offer its services in South Carolina, Mr. Barber testified that the officers of the Company include Richard Granville (Chairman and Chief Executive Officer), James Blanchard (President), Ronald McCallum (Chief Financial Officer), Sean Duffy (Vice President and Chief Sales and Marketing Officer), and Bruno Pasquali (Vice President of Sales). Most of the officers had either prior telecommunications or managerial experience before becoming

employed by Avana Communications Corporation. New Millenium Multimedia, Inc. purchased Avana Internet in May 1999. The new name of the Company became Avana Communications Corporation after New Millenium purchased Avana Internet. According to Mr. Barber, although financial statements for Avana Communications Corporation and New Millenium Multimedia, Inc. were included in the Application, the assets and liabilities of both of these companies are now under the umbrella of Avana Communications Corporation.

According to Mr. Barber, the Company also has the requisite technical ability to provide telecommunications services to its future South Carolina customers. Avana Communications Corporation has entered into an interconnection agreement with BellSouth. The Company's underlying carrier will be Qwest, AT&T or Global Crossings.

Avana Communication Corporation's customer service department consists of three departments. One call center receives calls from the Company's internet site from 7:00 a.m. until midnight. This center also has a technical group. The second department is a technical group that handles complex orders. Finally, the third center is a back office and call center of P.V. Telecom. This department is also open from 7:00 a.m. until midnight. After midnight, calls are routed to a paging system. If the call is urgent, the designated employee returns the customer's call immediately. Avana Communications Corporation also operates its own billing system by using Versatile Plus – a product distributed by VLM.

Avana Communications Corporation is also asking that this Commission grant it a waiver of 26 S.C. Code Ann. Regs. 103-610 (1976) and allow the Company to maintain its records in Atlanta, Georgia. The Company will market its services in South Carolina through direct sales and agencies. Super agents employed by the agencies that market the Company's services are trained by the Avana Communications Corporation. The Company is certified to provide its services in at least forty-eight other states and the Company has never had authority denied in any state where it has applied for authority nor has authority been revoked in any state where the Company has been granted authority.

Mr. Jim Blanchard is the regulatory contact person for the Company. The Commission Staff should contact Mr. Jim Foregger regarding financial questions on Avana Communications Corporation. Mr. Barber testified upon certification, Avana Communications Corporation will abide by all the Rules and Regulations of the Commission.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Avana Communications Corporation is organized as a corporation under the laws of the State of Georgia and has received a certificate from the South Carolina Secretary of State to transact business within South Carolina as a foreign corporation.
2. Avana Communications Corporation wishes to provide local exchange services and interexchange services within the State of South Carolina.

3. The Commission finds that Avana Communications Corporation possesses the technical, financial, and managerial resources sufficient to provide the service requested.

4. The Commission finds that Avana Communications Corporation's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 1998).

5. The Commission finds that Avana Communications Corporation will support universally available telephone service at affordable rates.

6. The Commission finds that Avana Communications Corporation will provide services which will meet the service standards of the Commission.

7. The Commission finds that the provision of local exchange service by Avana Communications Corporation "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1998).

#### **CONCLUSIONS OF LAW**

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Avana Communications Corporation to provide competitive intrastate local exchange services only to customers located in non-rural areas of South Carolina. The terms of the Stipulation between Avana Communications Corporation and the SCTC are approved, and adopted as a portion of this Order. Any proposal to provide local exchange service to a customer in a rural incumbent LEC's service area is not included in the instant grant of authority. Further, the Company is granted authority to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth

herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), directory assistance, travel card service or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. With regard to the interexchange service offerings of Avana Communications Corporation, the Commission adopts a rate design which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. Avana Communications Corporation shall not adjust its interexchange rates below the approved maximum level without notice to the Commission and to the public. Avana Communications Corporation shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 6, 1993). Any proposed increase in the maximum rate level for interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking

proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1998).

4. If it has not already done so by the date of issuance of this Order, Avana Communications Corporation shall file its revised local and long distance tariffs and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

5. Avana Communications Corporation is subject to access charges pursuant to Commission Order No. 86-584 in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

6. With regard to the Company's resale of interexchange service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. Avana Communications Corporation shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Avana Communications Corporation changes underlying carriers, it shall notify the Commission in writing.

8. With regard to the origination and termination of toll calls within the same LATA, Avana Communications Corporation shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 47 CFR 51.209.



9. Avana Communications Corporation shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

10. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs Avana Communications Corporation to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association ("SC NENA") with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board. By this Order and prior to providing services within South Carolina, Avana Communications Corporation, shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

11. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests

and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

Avana Communications Corporation shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. Attachment B shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

12. Avana Communications Corporation shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

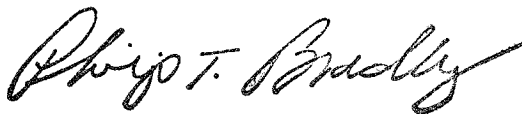
13. By its Application, Avana Communications Corporation requested a waiver of 26 S.C. Code Ann. Regs. 103-610 (1976) of maintaining its books within the State of South Carolina. The Commission finds the reasoning behind Avana Communications Corporation's request for this waiver reasonable and hereby grants a waiver of the regulation requested. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

14. Avana Communications Corporation shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, Avana Communications Corporation shall keep

financial records on an intrastate basis for South Carolina to comply with the annual and gross receipts filings.

15. This Order shall remain in full force and effect until further Order of the Commission.

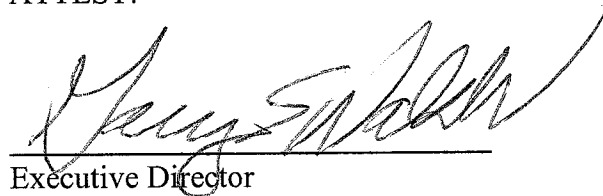
BY ORDER OF THE COMMISSION:



---

Chairman

ATTEST:



---

Executive Director

(SEAL)

BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF  
SOUTH CAROLINA

Docket No. 1999-416-C

Re: Application of Avana Communications )  
Corporation for a Certificate of Public )  
Convenience and Necessity to Provide Resold )  
Local Exchange Telecommunications Services )  
in the State of South Carolina )  
\_\_\_\_\_ )

**STIPULATION**

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and Avana Communications Corporation ("Avana") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, the necessity for SCTC's intervention in this matter is avoided and SCTC withdraws its opposition to Avana's Application. SCTC and Avana stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Avana, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. Avana stipulates and agrees that any Certificate which may be granted will authorize Avana to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. Avana stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. Avana stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until Avana provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, Avana acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. Avana stipulates and agrees that if Avana gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then Avana will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. Avana acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. Avana agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

9. Avana hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.


AGREED AND STIPULATED to this 22ND day of NOVEMBER, 1999.

Avana Communications Corporation:

 CFO

Attorneys for Avana Communications  
Corporation

South Carolina Telephone Coalition:

  
M. John Bowen, Jr.  
Margaret M. Fox  
McNAIR LAW FIRM, P.A.  
Post Office Box 11390  
(803) 799-9800

Attorneys for the South Carolina Telephone  
Coalition

## ATTACHMENT A

### South Carolina Telephone Coalition Member Companies for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.  
Bluffton Telephone Company, Inc.  
Chesnee Telephone Company  
Chester Telephone Company  
Farmers Telephone Cooperative, Inc.  
Ft. Mill Telephone Company  
Hargray Telephone Company, Inc.  
Heath Springs Telephone Company Inc.  
Home Telephone Company, Inc.  
Lancaster Telephone Company  
Lockhart Telephone Company  
McClellanville Telephone Company  
Norway Telephone Company  
Palmetto Rural Telephone Cooperative, Inc.  
Piedmont Rural Telephone Cooperative, Inc.  
Pond Branch Telephone Company  
Ridgeway Telephone Company  
Rock Hill Telephone Company  
Sandhill Telephone Cooperative, Inc.  
St. Stephen Telephone Company  
West Carolina Rural Telephone Cooperative, Inc.  
Williston Telephone Company

BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF  
SOUTH CAROLINA

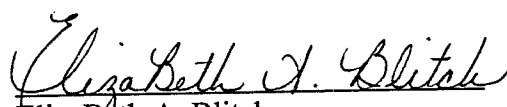
Docket No. 1999-416-C

Re: Application of Avana Communications )  
Corporation for a Certificate of Public )  
Convenience and Necessity to Provide Resold )  
Local Exchange Telecommunications Services )  
in the State of South Carolina )  
\_\_\_\_\_ )

**CERTIFICATE OF  
SERVICE**

I, ElizaBeth A. Blitch, do hereby certify that I have this date served one (1) copy of the foregoing Stipulation upon the following party of record by causing said copy to be deposited with the United States Mail, first class postage prepaid to:

Mr. Richard McDaniel  
Assistant Director  
Cathey, Hutton & Associates, Inc.  
3300 Holcomb Bridge Road  
Suite 286  
Norcross, Georgia 30092.

  
ElizaBeth A. Blitch  
McNAIR LAW FIRM, P.A.  
Post Office Box 11390  
Columbia, South Carolina 29211  
(803) 799-9800

December 2, 1999

Columbia, South Carolina



DOCKET NO. 1999-364-C AND 1999-416-C - ORDER NO. 2000-0080  
JANUARY 19, 2000  
ATTACHMENT A

---

**ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS  
FOR INTEREXCHANGE COMPANIES AND AOS'S**

---

COMPANY NAME

---

FEI NO.

---

ADDRESS

---

CITY, STATE, ZIP CODE

---

PHONE NUMBER

- (1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING  
DECEMBER 31 OR FISCAL YEAR ENDING \_\_\_\_\_.
- (2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING  
DECEMBER 31 OR FISCAL YEAR ENDING \_\_\_\_\_.
- (3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS\* FOR  
12 MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING \_\_\_\_\_.
- \* THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,  
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION WORK IN  
PROGRESS, ACCUMULATED DEFERRED INCOME TAX, CONTRIBUTIONS IN AID OF  
CONSTRUCTION AND CUSTOMER DEPOSITS.
- (4) PARENT'S CAPITAL STRUCTURE\* AT DECEMBER 31 OR FISCAL YEAR ENDING  
\_\_\_\_\_.
- \* THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT PORTION  
PAYABLE), PREFERRED STOCK AND COMMON EQUITY.
- (5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND  
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING  
DECEMBER 31 OR FISCAL YEAR ENDING \_\_\_\_\_.
- (6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE AMOUNT  
OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS WELL AS  
METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT (SEE #3  
ABOVE).

---

SIGNATURE

---

NAME (PLEASE TYPE OF PRINT)

---

TITLE

JANUARY 19, 2000

ATTACHMENT B

**AUTHORIZED UTILITY REPRESENTATIVE INFORMATION**

## PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION REGULATION

103-612.2.4(b) - Each utility shall file and maintain with the Commission the name, title, address, and telephone number of the persons who should be contacted in connection with Management Duties, Customer Relations (Complaints), Engineering Operations, Test and Repair, and Emergency Services during non-office hours.

Company Name ( Including dba Name(s) or Acronyms used ) \_\_\_\_\_

na)

Business Address \_\_\_\_\_

City, State, Zip Code \_\_\_\_\_

A.

General Manager Representative (Please Print or Type) \_\_\_\_\_

Telephone Number / Facsimile Number / E-mail Address

B.

Customer Relations (Complaints) Representative (Please Print or Type) \_\_\_\_\_

Telephone Number / Facsimile Number / E-mail Address

C.

Engineering Operations Representative (Please Print or Type) \_\_\_\_\_

Telephone Number / Facsimile Number / E-mail Address

D.

Test and Repair Representative (Please Print or Type) \_\_\_\_\_

Telephone Number / Facsimile Number / E-mail Address

E.

Contact for Emergencies During Non-Office Hours (Please Print or Type) \_\_\_\_\_

Telephone Number / Facsimile Number / E-mail Address

F.

Financial Representative (Please Print or Type) \_\_\_\_\_

Telephone Number / Facsimile Number / E-mail Address

G.

Customer Contact Telephone Number for Company (Toll Free) \_\_\_\_\_

This form was completed by \_\_\_\_\_

Signature \_\_\_\_\_

If you have any questions, contact the Consumer Services Department (803-896-5230) or Utilities Department at (803-896-5105).